

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 19156 of 2005

Between:

Boyapati Surendra Babu

..... PETITIONER

AND

The Superintendent of Police,

Kadapa District at Kadapa and another

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the action of the 2nd respondent in opening the rowdy sheet in D.C.No.770 at Badvel P.S. Kadapa District against the petitioner and continuing the same, as contrary to PSO.742 and bad, arbitrary and illegal, the present writ petition is filed.

It is the case of the petitioner that he is a respectable person in the society and he was falsely involved in Cr.No.7 of 1991 of D.C.Palli P.S for the offence punishable under Section 412 of I.P.C. Basing on his involvement, the Inspector of Police directed the 2nd respondent to open a rowdy sheet against the petitioner and accordingly a rowdy sheet has been opened in D.C.No.770 against the petitioner. In the above said crime, charge sheet filed and the same is numbered as S.C.No.410 of 1994 on the file of the Assistant Sessions Judge, Kovvur, and it was disposed of, acquitting the petitioner, by judgment dated 31.01.1997. Though the petitioner was acquitted in the said case, the rowdy sheet has been maintaining by the 2nd respondent continuously. Hence the petitioner is constrained to file this writ petition.

A detailed counter affidavit has been filed by the respondents denying the averments made in the writ petition and further stated that almost all 9 crimes were registered against the petitioner and he is young and indulging in criminal acts and the public are afraid of to report against him. Though there are no cases pending at present, as there is likelihood that the petitioner may cause breach of peace and tranquility, the rowdy sheet has been maintaining against him.

Heard the learned counsel for the petitioner and the learned Government Pleader for Home.

The learned counsel for the petitioner contended that out of 9 cases, the name of the petitioner was deleted in 8 cases at the time of filing charge sheet, and one case was ended in acquittal in the year 1997, and thereafter, no criminal case is registered or filed against the petitioner, and therefore, continuation of rowdy sheet

against the petitioner is contrary to the A.P.Police Standing Orders, and hence he prays to allow the writ petition.

On the other hand, the learned Government Pleader for Home contended that there is every likelihood of breach of peace and tranquility by the petitioner and that is why the rowdy sheet against the petitioner not closed, and there are no grounds to close the rowdy sheet against the petitioner.

It is stated in the counter affidavit that 9 criminal cases have been registered against the petitioner. Even according to the respondents, all the cases were ended in acquittal. But according to the learned Government Pleader for Home, the name of the petitioner has been deleted from 8 cases out of 9 cases, and therefore, he is not an accused, and that even according to the respondents, no case is registered against the petitioner after 1991. The contention of the respondents of the respondents that if the illegal activities of the petitioner are not curtailed, there is every likelihood that he may cause breach of peace and tranquility, without giving any detailed report how he would cause breach of peace and tranquility, cannot be accepted.

The A.P.Police Standing Order No.742 authorises the police to open a rowdy sheet against a person, provided that the conditions laid down therein are fulfilled. The A.P.Police Standing Order No.742 reads thus:

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A.P.Police Standing Orders:

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S.O.742: ROWDIES:-

The following persons may be classified as Rowdies and Rowdy sheet (Form 88) may be opened for them under the order of the Superintendent of Police or Sub-Divisional Officer:

- a. Persons who habitually commit, attempt to commit or abet the commission of, offences involving a breach of peace;
- b. Persons bound over under Sections 106, 107, 108(c) and 110(1) of the Code of Criminal Procedure, 1973 (Act No.2 of 1974);
- c. Persons who have been convicted more than once in two consecutive years under section 75 of the Madras City Police Act or under Section 3, clause 12, of the Towns Nuisances Act;
- d. Persons who habitually tease women and girls by passing indecent remarks or otherwise; and
- e. In the case of rowdies residing in a area under one police station but are found frequently visiting the area under one or more other police stations there rowdy sheets can be maintained at all such police stations;

(G.O.Ms.No.656, Home (Police-D) Dept., dated 8th April, 1971)

None of the conditions, as stated in the S.O.No.742, attracts in this case so as to continue a rowdy sheet against the petitioner. Therefore, in the absence of any specific instance or allegation that the petitioner is likely to commit or abet any offence, or commit breach of peace and tranquility, the rowdy sheet against the petitioner cannot be continued.

For the foregoing reasons, I deem it appropriate to allow the writ petition.

Accordingly, the Writ Petition is allowed as prayed for. No order as to costs.

K.C. BHANU,J

Dated: 15.09.2005

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